

CHAPTER 8. ANTIDegradation ANALYSIS

Key Points

- The state and federal antidegradation policies require, in part, that where surface waters are of higher quality than necessary to protect beneficial uses, the high quality of those waters must be maintained unless otherwise provided by the policies.
- The federal antidegradation policy prohibits any activity or discharge that would lower the quality of surface water that does not have assimilative capacity with limited exceptions as set forth in the federal regulations.
- The Scott River TMDL Action Plan is based, in part, on the principles contained in the state and federal antidegradation policies.
- The Scott River TMDL Action Plan will result in water quality improvement; therefore, state and federal antidegradation analyses are not required.

This chapter briefly describes the state and federal antidegradation policies and how they apply to the Scott River TMDL Action Plan.

8.1 STATE & FEDERAL ANTIDegradation POLICIES

The state and federal antidegradation policies are independently enforceable requirements, despite being referred to as policies. The state antidegradation policy is titled the *Statement of Policy with Respect to Maintaining High Quality Waters in California*, codified in 23 CCR §2900, and is commonly known as “Resolution 68-16.” The federal antidegradation policy is found at 40 CFR §131.12. Both policies have been incorporated into the Basin Plan.

Although there are some differences, where the state and federal policies overlap they are consistent with each other. Both the state and federal antidegradation policies require that where surface waters are of higher quality than necessary to protect the designated beneficial uses, the high quality of those waters be maintained unless otherwise provided by the policies. Both policies require that certain findings be made before any adverse change to water quality can be permitted. The State Water Board has concluded that Resolution No. 68-16 incorporates the federal Antidegradation Policy (see State Water Board Order No. WQ 2001-16, p. 19, fn 83).

The state antidegradation policy applies to groundwater and surface water whose quality meets or exceeds water quality objectives. The state policy establishes a two-step process to determine if discharges that will degrade water quality are allowed. The first step requires that where a

discharge will degrade high quality water, the discharge may be allowed if any change in water quality:

1. Will be consistent with the maximum benefit to the people of the state,
2. Will not unreasonably affect present and anticipated beneficial uses of such water, and
3. Will not result in water quality less than that prescribed (e.g., by water quality objectives).

The second step is that any activities that result in discharge to high quality waters are required to use the best practicable treatment or control necessary to avoid a pollution or nuisance and to maintain the highest water quality consistent with the maximum benefit to the people of the state. The state antidegradation policy further establishes that if the discharge, even after treatment, unreasonably affects beneficial uses or does not comply with applicable provisions of Basin Plans, the discharge would be prohibited.

The federal antidegradation policy applies to surface water regardless of the quality of the water. In allowing an activity to degrade or lower water quality, the federal antidegradation policy requires states to ensure that:

1. The activity is necessary to accommodate important economic or social development in the area,
2. Water quality is adequate to protect and maintain existing beneficial uses fully, and
3. The highest statutory and regulatory requirements and best management practices for pollution control are achieved.

The federal antidegradation policy also applies to surface waters that do not meet the applicable water quality objectives (i.e., impaired waters). Under the federal policy, an activity or discharge would be prohibited if the activity will lower the quality of surface water that does not have assimilative capacity (i.e., the water quality is not sufficient to support designated beneficial uses) with limited exceptions set forth in federal regulations.

Both the state and federal antidegradation policies acknowledge that minor or repeated activities, even if individually small, can result in violation of antidegradation policies through cumulative effects, especially, for example, when the waste is a cumulative, persistent, or bioaccumulative pollutant.

8.2 APPLICABILITY TO THE SCOTT RIVER TMDL ACTION PLAN

The proposed Scott River TMDL Action Plan is based in part on the principles contained in the state and federal antidegradation policies. The recommended alternative – adoption of the proposed Scott River TMDL Action Plan and adoption of the proposed introductory summary of TMDLs – will not delete or limit beneficial use designations and will not relax any water quality standard. This proposal will result in water quality improvements; therefore, state and federal antidegradation analyses are not required.